UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

    v.   Criminal No. 99-cr-62-02-PB

Daryl Gomez

O R D E R

On October 24, 2007, defendant appeared for a "probable cause" hearing under Fed. R. Crim. P. 32.1 on six alleged violations of conditions of supervision. Nashua Police Officer Prymak testified convincingly that defendant was armed with a baton (billy club) which he dropped after at least three orders to do so. Whether he had the weapon to defend himself from Colantonio does not matter for purposes of probable cause. He also violated for drug use. I therefore find probable cause to hold him for a revocation hearing.

Defendant sought bail conditions under Rule 32.1(a)(6). Under Rule 32.1(a)(6) defendant bears the burden of establishing by clear and convincing evidence that he will not flee and that he poses no danger to any other person or to the community. Given his numerous "second" chances, he is not likely to abide by any conditions. He is a risk of flight and a danger to the community. There are no conditions which are likely to assure

his presence and the safety of the community.

Accordingly, it is **ORDERED** that the defendant be detained

pending trial.

The defendant is committed to the custody of the Attorney

General or his designated representative for confinement in a

corrections facility separate, to the extent practicable, from

persons awaiting or serving sentences or being held in custody

pending appeal. The defendant shall be afforded a reasonable

opportunity for private consultation with defense counsel. On

order of a court of the United States or on request of an

attorney for the government, the person in charge of the

corrections facility shall deliver the defendant to the United

States Marshal for the purpose of an appearance in connection

with a court proceeding.

SO ORDERED.

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James R. Muirhead
United States Magistrate Judge

Date: October 29, 2007

cc: Richard F. Monteith, Jr., Esq.
      Donald A. Feith, Esq.
      Mark E. Howard, Esq.
      U.S. Marshal
      U.S. Probation